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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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HARBINGER CAPITAL PARTNERS MASTER :
FUND I, LTD., ET AL., :

Plaintiffs, : 07-CV-08139 (DC)

-against- : Hon. Denny Chin

WACHOVIA CAPITAL MARKETS, LLC D/B/A : ELECTRONICALLY FILED
WACHOVIA SECURITIES, ET AL.,

Defendants.

NOTICE OF MOTION

PLEASE TAKE NOTICE that Defendant Wachovia Capital Markets, LLC (“WCM”), upon the annexed Affirmation of Harvey Kurzweil, executed November 13, 2007, the exhibits annexed thereto, and the accompanying Memorandum of Law in Support of Wachovia Capital Markets, LLC’s Motion to Dismiss on Standing and Jurisdictional Grounds, dated November 13, 2007, shall, pursuant to Federal Rules of Civil Procedure 12(b)(1) and (6), move this Court, by its undersigned counsel, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York, on a date and time to be set by the Court, for an order dismissing, without prejudice, plaintiffs’ claims against WCM for conspiracy to violate the

Racketeer Influenced and Corrupt Organizations Act pursuant to 18 U.S.C. §1962(d), fraud, aiding and abetting fraud, negligent misrepresentation and civil conspiracy.

Dated: New York, New York
November 13, 2007

Respectfully submitted,

DEWEY & LEBOEUF LLP

By: /s/ Harvey Kurzweil
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